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RASIER, LLC; and RASIER-CA, LLC

[Additional Counsel Listed on Signature Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

**DECLARATION OF DANIEL
CUMMINGS IN SUPPORT OF
DEFENDANTS' STATEMENT IN
SUPPORT OF PLAINTIFFS'
ADMINISTRATION MOTION TO
CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE
FILED UNDER SEAL [ECF NO. 1651]**

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

DECLARATION OF DANIEL CUMMINGS IN SUPPORT OF DEFENDANTS' STATEMENT IN SUPPORT OF
PLAINTIFFS' ADMINISTRATION MOTION TO CONSIDER WHETHER ANOTHER PARTY'S MATERIAL
SHOULD BE FILED UNDER SEAL [ECF NO. 1651]

DECLARATION OF DANIEL CUMMINGS

I, Daniel Cummings, having personal knowledge of the following state:

1. I am an attorney at the law firm of Shook, Hardy & Bacon LLP, attorneys of record for Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC, (collectively, “Uber”). I am a member in good standing of the Bars of the States of Missouri, Kansas, and Nebraska. I know the following facts to be true of my own knowledge, except those matters stated to be based on information and belief, and if called to testify, I could competently do so. I respectfully submit this declaration in support of Uber’s Statement in Support of Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should Be Filed Under Seal, ECF No. 1811.

2. I have reviewed the un-redacted joint letter brief on privilege disputes. The redacted portions of the letter brief contain the names and descriptions of confidential and privileged documents, names of internal business systems used by Uber, descriptions of Uber’s confidential business proposals and practices and business relationships, employee names, and names of and general descriptions of privileged documents, including the matters on which Uber sought and received legal advice. It also contains references to a publicly available media article, but connects the article to a confidential, privileged document and general descriptions thereof. Disclosure of the circumstances under which a party sought and received legal advice and the purposes of such advice, as well as related confidential business information should be sealed. *Fed. Trade Comm’n v. Qualcomm Inc.*, No. 17-CV-00220-LHK, 2018 WL 2317835, at *6 (N.D. Cal. May 22, 2018).

3. I have reviewed the un-redacted declaration of Tiffany Ellis in support of the joint letter brief on privilege disputes. The redacted portions of this declaration contain the descriptive name of a confidential and privileged document related to a business strategy document, descriptions of a confidential business decision or proposal, and the name of an internal business systems used by Uber. “[C]ourts routinely grant motions to seal [] confidential business information.” *Natera, Inc.*, 2023 WL 4536375, at *2.

4. I have reviewed Exhibit A to the declaration of Tiffany Ellis in support of the joint

1 letter brief on privilege disputes. It is a confidential, non-public, internal Uber email. The email
 2 discusses a confidential business proposal and strategies regarding the same. *Natera, Inc.*, 2023 WL
 3 4536375, at *2.

4 5. I have reviewed Exhibit B to the declaration of Tiffany Ellis in support of the joint
 5 letter brief on privilege disputes. It is a chart created from confidential privilege log(s) provided by
 6 Uber. The log contains information related to privileged documents, including numerous employee
 7 names and email addresses, document titles and email subjects, attorney names, and general
 8 descriptions of the bases for the privilege claims, revealing the matters on which Uber sought and
 9 received legal advice. Disclosure of the circumstances under which a party sought and received legal
 10 advice and the purposes of such advice, as well as related confidential business information should be
 11 sealed. *Qualcomm Inc.*, 2018 WL 2317835, at *6; *see also Fernandez v. CoreLogic Credco, LLC*,
 12 No. 20-CV-1262-JM-AGS, 2023 WL 11445613, at *1 (S.D. Cal. Mar. 8, 2023) (finding good cause
 13 to seal privilege logs that “reflect[ed] the identity of documents and communications withheld ... from
 14 production on privilege grounds”).

15 6. I have reviewed Exhibit C to the declaration of Tiffany Ellis in support of the joint
 16 letter brief on privilege disputes. It is a chart created from information in confidential privilege log(s)
 17 provided by Uber and from Uber’s draft portion of the letter brief. Information from the log contains
 18 custodian names, and general descriptions of the bases for the privilege claims, revealing the matters
 19 on which Uber sought and received legal advice. The information from the letter brief contains
 20 redacted information (described above), including the descriptions of confidential and privileged
 21 documents, employee and attorney names, and general descriptions of privileged documents,
 22 including Uber’s business relationships and the matters on which Uber sought and received legal
 23 advice. Disclosure of the circumstances under which a party sought and received legal advice and the
 24 purposes of such advice, as well as related confidential business information should be sealed.
 25 *Qualcomm Inc.*, 2018 WL 2317835, at *6; *see also Fernandez*, 2023 WL 11445613, at *1 (S.D. Cal.

1 Mar. 8, 2023) (finding good cause to seal privilege logs that “reflect[ed] the identity of documents and
2 communications withheld ... from production on privilege grounds”).

3 7. I have reviewed the declaration of Scott Binnings in support of the joint letter brief on
4 privilege disputes. The declaration contains descriptions of confidential and privileged documents
5 and the business practices, plans, or communications described therein, names of Uber employees and
6 attorneys, and general descriptions of the matters on which Uber sought and received legal advice.
7 Disclosure of the circumstances under which a party sought and received legal advice and the purposes
8 of such advice, as well as related confidential business information should be sealed. *Qualcomm Inc.*,
9 2018 WL 2317835, at *6.

10 8. I have reviewed the declaration of Daniel Kolta in support of the joint letter brief on
11 privilege disputes. The declaration contains descriptions of confidential and privileged documents
12 and the business practices, plans, or communications described therein, names of Uber employees and
13 attorneys, and general descriptions of the matters on which Uber sought and received legal advice.
14 Disclosure of the circumstances under which a party sought and received legal advice and the purposes
15 of such advice, as well as related confidential business information should be sealed. *Qualcomm Inc.*,
16 2018 WL 2317835, at *6.

17 9. I have reviewed the declaration of Maureen Frangopoulos in support of the joint letter
18 brief on privilege disputes. The declaration contains descriptions of confidential and privileged
19 documents and the business practices, plans, communications, and partnerships described therein,
20 names of Uber employees and attorneys, and general descriptions of the matters on which Uber sought
21 and received legal advice, as well as information about Uber’s business relationships. Disclosure of
22 the circumstances under which a party sought and received legal advice and the purposes of such
23 advice, as well as related confidential business information should be sealed. *Qualcomm Inc.*, 2018
24 WL 2317835, at *6.

25 10. The disclosure of the above-described documents could harm Uber’s marketplace
26 standing and cause undue harm if publicly disseminated. No less restrictive alternative to sealing
27

1 would protect Uber's legitimate interests as un-redacted versions of the letter brief and Ellis
2 Declaration have already been filed on the docket.

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4 I declare under penalty of perjury that the foregoing is true and correct.

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6 Executed on October 31, 2024.

By: /s/ Daniel Cummings

7 Daniel Cummings
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